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62. The shelf according to Claim 1 additionally comprising members on the front and other rod-like member for fixing the framework under another structure.

### **COMMENTS**

Claims 1-20, 22-24, 26-37, 39, and 49-62 remain pending in the present application, Claims 30, 36, 53, 54, 57, and 58 having been amended.

As noted above, the claims set forth above include bracketing and underlining showing changes made to the claims relative to the issued patent. For the Examiner's convenience, Applicant has attached separate pages titled "VERSION WITH MARKINGS SHOWING CHANGES MADE" which includes the amended claims with brackets and underlining showing changes made to the claims only by way the present amendment.

### **Declaration Under 37 C.F.R. § 1.175(B)(1)**

The pending claims stand rejected under 37 C.F.R. § 1.175(b)(1) based on the requirement for a supplemental declaration. Applicant will file a supplemental declaration as requested by the Examiner.

### **All Pending Claims Now Fully Comply With 35 U.S.C. § 112 Second Paragraph**

Claims 30-37, 39, 53-54, and 57-61 stand rejected under 35 U.S.C. § 112, second paragraph, the Examiner maintaining that the language therein is indefinite as filed. In response, Applicant has amended the claims solely to make the claims more easily readable and not to narrow or affect the scope of the claims.

In response to the rejection of Claims 30 and 36 based on the lack of antecedent basis for the phrase "the rear portion," Applicant has amended Claims 30 and 36 to recite "rearward portion."

In response to the rejection of Claim 53 based on the lack of antecedent basis for the phrase "the front rod-like member," Applicant has amended Claim 53 to recite "the front member."

In response to the rejection of Claim 54 based on the lack of antecedent basis for the phrase "the at least one other rod-like member," Applicant has amended Claim 54 to recite "the at least one other member."

In response to the rejection of Claim 57 based on the lack of antecedent basis for the phrase "the plurality of cans," Applicant has amended Claim 57 to recite "the plurality of cylindrical beverage containers."

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In response to the rejection of Claim 58 based on the lack of antecedent basis for the phrase "the rear portion," Applicant has amended Claim 58 to recite "the rearward portion."

**Claims 24, 30-35, 51, 52, And 57-61 Fully Comply With U.S.C. § 112 First Paragraph**

Claims 24, 30-35, 51, 52, and 57-61 stand rejected under 35 U.S.C. § 112, first paragraph, as containing subject matter not described in the specification so as to convey to one skilled in the art that the inventor had possession of the claimed invention. Applicant respectfully traverses this rejection.

In particular, paragraph number 7 on page 5 of the outstanding Official Action, indicates that the above-noted claims stand rejected based on the objections to the disclosures set forth at pages 4 and 5, i.e., the objections to the drawings based on 37 C.F.R. § 1.83(a). In response to these rejections, Applicant has the following comments:

In response to the rejection of Claims 24, 35, 51, and 59 based on the phrase "fasteners," or "threaded fasteners," Applicant respectfully directs the Examiner to column 2, lines 59-64 where the present specification discloses that the shelf 16 can be:

fastened under the other structure to hang the framework under the other structure . . . . For example, the panels 10e, 10f could have holes (not shown) for threaded fasteners to a cooler shelf.

Applicant therefore submits that the terms "fasteners," and "threaded fasteners," are clearly and fully disclosed in the present Reissue Application.

With respect to the rejection of Claim 30 based on the phrase "a substantially horizontal shelf," Applicant submits that one of ordinary skill in the art would understand that the shelf referred to in Claim 30 can be horizontal or substantially horizontal, in view of the specification of the present Reissue Application. However, in order to expedite prosecution of the present Reissue Application, Applicant has deleted the term "substantially" from Claim 30. Thus, the present rejection of Claim 30 is moot.

With respect to the rejection of Claim 33 based on the phrase "the shelf is adjustably mounted," Applicant respectfully directs the Examiner to Column 1, lines 44-50 where it is disclosed that:

Shelves in visi-coolers, walk-in coolers and other places are often set in the structures by clips that engage notches that progress at intervals vertically at the corners of the shelves. In such arrangements, it is

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often a simple matter to set the clips for the fronts of the shelves a notch or two lower than the clips for the rears of the shelves to provide a desired incline.

Additionally, throughout the specification of the present Reissue Application, it is disclosed that the shelf 16 can be used in conjunction with shelves in visi-coolers and walk-in coolers. Thus, Applicant submits that one of ordinary skill in the art would understand that where the specification expressly refers to the use of the shelf 16 with a shelf of a visi-cooler or walk-in cooler, e.g., at column 2, lines 55-56, column 3, lines 35-41, column 3, lines 52-53, column 4, lines 37-39 the shelves would be understood as including the adjustability described at column 1, lines 41-50.

With respect to the rejection of Claim 32 based on the phrase "the rack is narrower than the shelf," Applicant respectfully directs the Examiner to Column 6, lines 10-22 where it is disclosed that:

It will be appreciated that nothing has been said above about the relative widths of the preexisting shelf structure in a cooler or other structure on which the disclosed shelf structure is used. It may be that as a rule the shelf structure cannot be wider than the preexisting cooler shelf for which it is intended, but it can be narrower. When it is narrower than the preexisting cooler shelf, taller goods on that shelf can be retained on the preexisting shelf while the shelf structure is inserted under the shorter goods. The shelf structure then doubles the preexisting shelf area it covers. Therefore, there is an advantage in having the disclosed shelf structure in modules of widths less than the widths of the preexisting cooler shelves on which they may be used.

With respect to the rejection of Claims 33 and 34 based on the phrases "a clearance is defined between a lower surface of the shelf and an upper surface of the support assembly," and "the clearance," Applicant respectfully directs the Examiner to column 4, lines 65 - column 5, line 15 where it is disclosed that:

The height of the supports 22a can be limited to provide a clearance between the rods 36 and the underside 20 of the shelf substantially than the diameter of the cans. If, in a marketing strategy, cans are provided with a diameter slightly smaller than a typical beverage can, for example about 2 inches in diameter, as opposed to about 2.5 inches for a typical beverage can, then it will be appreciated that substitution of such typical beverage cans by competitors can be prevented by making the clearance provided by the supports 22a sufficient to accommodate only the smaller diameter cans.

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Applicant submits that the above disclosure fully and completely supports the identified phrases of Claims 33 and 34.

With respect to the rejections of Claims 52, 57, 58, 60, and 61 based on the term "apertures," and phrases such as "first and second apertures," and "third and forth apertures," Applicant respectfully directs the Examiner to Column 2, lines 62-64 where it is disclosed that "the panels 10e, 10f could have holes (not shown) for a threaded fastener to a cooler shelf." Applicant submits that in light of this disclosure, one of ordinary skill in the art would understand that each of the panels 10e, 10f could have a plurality of holes for connecting the shelf 16 to a cooler shelf with threaded fasteners extending through the holes. Thus, where each of the panels 10e and 10f include a plurality of holes, the total number of such holes would be at least four. For at least these reasons, the terms first, second, third, and forth apertures, are fully supported by the present specification.

#### **Objection To The Drawings**

The drawings stand objected to under 37 C.F.R. § 1.83(a), the Examiner's position being that the drawings do not show certain features identified in the Office Action pertaining to Claims 24, 30-35, 51, 52, and 57-61. On page 5 of the Office Action, the Examiner indicates that "because these features are not shown in the drawings, **and are not referred to specifically in the specification** as well, they are, therefore, inadequately disclosed." Applicant therefore submits that since the identified terms of these claims are specifically and explicitly disclosed in the present specification, as noted in the above section, no drawing corrections are necessary.

#### **Claims 20, 22-24, 26-37, 39, 49-52, And 54-61 Do Not Violate 35 U.S.C. § 251**

Claims 20, 22-24, 26-37, 39, 49-52, and 54-61 stand rejected under 35 U.S.C. § 251 as improperly recapturing subject matter surrendered during the prosecution of the patent upon which the present Reissue Application is based. Applicant respectfully traverses this rejection.

#### **Mere Amendment of an Allowed Dependent Claim into Independent Form**

#### **is Not a Surrender**

It is well established that "to determine whether an Applicant surrendered particular subject matter, we look to the prosecution history for **arguments and changes** to the claims made in an effort to overcome a prior art rejection." *Hester Industries, Inc. v Stein, Inc.*, 46 U.S.P.Q.2d 1641, 1648 (citing *in re Clement*, 45 U.S.P.Q.2d 1161 (Fed. Cir. 1997)) (emphasis added).

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When an allowed dependent claim is merely amended into independent form, such an amendment does not narrow the scope of the claim. *See Bose Corp. v JBL Inc. and Infinity Systems Corp.*, 61 U.S.P.Q.2d 1216 (Fed. Cir. 2001). In *Bose*, original dependent Claim 2 was indicated as being allowable in the first office action. In response, Claim 2 was incorporated into independent Claim 1. Additionally, an amendment was made to overcome a rejection under 35 U.S.C. § 112, 2<sup>nd</sup> paragraph. In light of these amendments, the Federal Circuit in *Bose* held that the "narrowing amendment" requirement for applying prosecution history estoppel was not met.

The analysis of narrowing amendments for purposes of prosecution history estoppel is analogous to the determination of surrender in a recapture analysis. In *Hester*, the court commented that:

Indeed, the recapture rule is quite similar to prosecution history estoppel, which prevents the application of the doctrine of equivalents in a manner contrary to the patent's prosecution history. See Warner-Jenkinson Co. v. Hilton Davis Chem. Co., 117 S. Ct. 1040, 1051 [ 41 USPQ2d 1865 ] (1997). Like the recapture rule, prosecution history estoppel prevents a patentee from regaining subject matter surrendered during prosecution in support of patentability. See *id.*

[T]he analogy is with the recapture rule, which restricts the permissible range of expansion through reissue just as prosecution history estoppel restricts the permissible range of equivalents under the doctrine of equivalents.

*Hester* at 1649.

Under the recapture rule, a surrender must be based on "arguments and changes to the claims made in an effort to overcome a prior art rejection." *Hester* at 1648. This is essentially the same analysis for determining whether prosecution history estoppel applies. Thus, where an amendment would not be considered a narrowing amendment for purposes of prosecution history estoppel, the same amendment does not give rise to a surrender of subject matter under 35 U.S.C. § 251.

**Issued Claims 8 and 17 were not narrowed during prosecution**

At page 7 of the outstanding Office Action, the Examiner indicated that Claims 4, 8, and 17 "were amended to overcome a prior art rejection (Office Action, paper no. 6, March 18, 1999)." Applicant respectfully submits that Claims 8 and 17 were never rejected over prior art. Rather,

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Claims 8 and 17 were allowed in the first Office Action addressing the merits. Additionally, there are no comments or arguments on the record establishing a criticality of the subject matter of original Claims 8 and 17.

During the prosecution of U.S. Patent Application No. 09/015,595 (the Application which eventually issued as U.S. Patent 6,044,983) a first Office Action dated January 7, 1999 rejected Claims 1-3 of the original Application. However, as noted in the response filed by Applicants on January 18, 1999, the January 7 Office Action did not address the preliminary amendment filed November 25, 1998. Thus, a new Office Action (paper no. 6) was mailed on March 8, 1999. In this Office Action, Claims 8-11, and 16-22 were indicated as being allowable if amended into independent form and to overcome rejections under 35 U.S.C. § 112, second paragraph.

Application Claim 8 (issued Claim 5) was, however, rejected under 35 U.S.C. § 112, second paragraph based on a lack of antecedent basis for the phrases "one end" and "an opposite end." Claim 8 was not amended in response to this rejection. Rather, Applicant explained that Claim 8 did not violate 35 U.S.C. § 112, second paragraph. See page 7 of the Amendment filed June 8, 1999. Claim 17 was not rejected for any reason.

In the Amendment filed June 8, 1999, application Claims 8 and 17 were amended into independent form, and later issued as patent Claims 5 and 14, respectively. Applicants thus submit that patent Claims 5 and 14 were allowed in the first Office Action on the merits. Thus, there were no amendments made to Claims 5 and 14 which would be considered "changes to the claims in an effort to overcome a prior art rejection." Rather, patent Claims 5 and 14 should have the status of a claim that was allowed in a first Office Action, and as such, no surrender can be implied therefrom.

**Claims 20, 22-24, 26-37, 39, 49-52, and 54-61 Do Not Recapture**

**Surrendered Subject Matter**

Claim 14 recites, among other features, "members on the front and other rod-like members for fixing the framework under another structure." Along similar lines, each of Claims 20, 30, 36, and 49 recite support legs "having upper ends configured to hang" from another structure such as a shelf. Additionally, Claim 57 recites "the first and second apertures being configured to receive fasteners for supporting the forward portion of the support assembly from a shelf above the support assembly. . . . the third and fourth apertures being configured to receive fasteners for supporting the rearward portion of the support assembly from a shelf above the support

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assembly.” Applicant therefore submits that at least issued Claim 14, which was not amended to overcome any rejection during the prosecution of the original patent, provides the proper basis for the broadening Claims 20, 30, 26, 49, and 57.

As noted above, issued Claim 5 was also allowed in the first Office Action, then subsequently amended into independent form. Claim 5 recites, among other features, “wherein the framework comprises further rod-like members extending from one end at the stop to an opposite end that is rearward of a rearward most one of the at least one other rod-like member.” Along similar lines, Claim 54 recites “wherein the framework comprises further members extending from one end at the stop to an opposite end that is rearward of a rearward most one of the at least one other member.” Applicant therefore submits that at least issued Claim 5 provides the proper basis for the broadening Claim 54.

With respect to Claim 55, Applicant would also like to point out that it is well established that “reissue claims that are broader in certain respects and narrower in others may avoid the effect of the recapture rule.” *In re Clement*, 45 USPQ2d 1161, 1165 (Fed. Cir. 1997). For example, in *Ball* the recapture rule was avoided because the reissue claims were sufficiently narrowed (described by the court as “fundamental narrowness”) despite the broadened aspects of the claims. *Hester Industries, Inc. v Stein, Inc.*, 46 U.S.P.Q.2d 1641, 1649. “[T]his principle, in appropriate cases, may operate to overcome the recapture rule when the reissue claims are materially narrower in other overlooked aspects of the invention. The purpose of this exception to the recapture rule is to allow the patentee to obtain through reissue a scope of protection to which he is rightfully entitled for such overlooked aspects.” *Id.* at 1649-1650.

Present Claim 55 recites, among other features, “a front member and at least one other member rearwardly spaced from the front member and, together with the front member, defining a first plane and configured to support additional shelving above the first plane.” None of the original claims of the ‘983 patent recited this feature. This feature is important because the type of shelving that is configured to support additional shelving above itself provides a distinct advantage over other kinds of shelving. For example, this type of shelving can be placed on an existing shelf, and support a further shelf thereon, thereby maximizing the use of the space available in a display case typically used in retail beverage sales. See col. 5, l. 46 - col. 6, l. 39.

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Thus, Claim 55 is directed to an aspect of one of the inventions disclosed in the '983 patent that was not recited with sufficient clarity in the original claims thereof.

Applicant therefore submits that Claims 20, 22-24, 26-37, 39, 49-52, and 54-61 fully comply with 35 U.S.C. § 251.

**Further Rejections of Claims 20, 22-24, 26-37, 39, 49-52, and 54-61 under 35 U.S.C. § 251**

**Should Not Be Final**

Applicants submit that assuming, *arguendo*, that the amendments made to application Claim 4 (issued Claim 1) can be used as a basis for a rejection of any of Claims 20, 22-24, 26-37, 39, 49-52, and 54-61, such a further rejection should not be made final.

The present rejection of Claims 20, 22-24, 26-37, 39, 49-52, and 54-61 under 35 U.S.C. § 251 are purportedly based on, at least in part, the original "elements" contained in Claims 8 and 17. Additionally, the Office Action indicates that "any claim in reissue must include these elements." Page 7 of the Office Action dated October 22, 2002.

As noted above, Applicant submits that the amendments to application Claims 8 and 17 do not represent a surrender under the Recapture rule. Furthermore, contrary to the explanation set forth at page 7 of the Office Action, the features originally appearing in Claims 8 and 17 cannot possibly represent surrendered subject matter. Thus, in light of the improper inclusion of the original language of application Claims 8 and 17 as part of the present Recapture rejection, Applicant cannot properly respond to a hypothetical rejection based on the amendments to Claim 1 only. Applicant therefore respectfully requests that any future rejection of Claims 20, 22-24, 26-37, 39, 49-52, and 54-61 under 35 U.S.C. § 251 that is not based on the identified "elements" of application Claims 8 and 17, is not made final.

**CONCLUSION**

For the foregoing reasons, it is respectfully submitted that the rejections set forth in the outstanding Office Action are inapplicable to the present claims. Accordingly, early issuance of a Notice of Allowance is most earnestly solicited.



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The undersigned has made a good faith effort to respond to all of the rejections in the case and to place the claims in condition for immediate allowance. Nevertheless, if any undeveloped issues remain or if any issues require clarification, the Examiner is respectfully requested to call Applicant's attorney in order to resolve such issue promptly.

Respectfully submitted,

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**VERSION WITH MARKINGS SHOWING CHANGES MADE**

**IN THE CLAIMS:**

**Claims 30, 36, 53, 54, 57, and 58 have been amended as follows:**

1. In one of a cooler, visi-cooler, walk-in cooler and glass-door cooler having fixed or adjustable shelves, the improvement comprising:

a shelf structure configured to rest on and engage one of the shelves which is horizontal or inclined, the shelf structure comprising:

a front rod-like member (10a) and at least one other rod-like member (10b, 10c) rearwardly spaced from the front rod-like member (10a) and, together with the front rod-like member (10a), defining a first plane (16) and configured to support additional shelving above the first plane;

a framework (22b) defining a second plane; and

at least one support (22a) connecting at least the front rod-like member (10a) and the framework (22b),

wherein at least a portion of the framework (22b) extends at least forward of a projection of the front rod-like member (10a) thereon with a stop (34) in a direction from the second plane with at least a component toward the first plane (16).

2. The shelf structure according to claim 1, and further comprising at least one member connecting the front and other rod-like members.

3. The shelf structure according to claim 1, wherein the at least one support comprises legs extending from opposite ends of the front and other rod-like members.

4. The shelf structure according to claim 2, wherein the at least one support comprises legs extending from opposite ends of the front and other rod-like members.

5. A shelf structure comprising:

a front rod-like member (10a) and at least one other rod-like member (10b, 10c) rearwardly spaced from the front rod-like member (10a) and, together with the front rod-like member (10a), defining a first plane (16);

a framework (22b) defining a second plane; and

at least one support (22a) connecting at least the front rod-like member (10a) and the framework (22b),

wherein at least a portion of the framework (22b) extends at least forward of a projection of the front rod-like member (10a) thereon with a stop (34) in a direction from the second plane with at least a component toward the first plane (16), and

wherein the framework comprises further rod-like members extending from one end at the stop to an opposite end that is rearward of a rearward most one of the at least one other rod-like member.

6. In one of a cooler, visi-cooler, walk-in cooler and glass-door cooler having fixed or adjustable shelves, the improvement comprising:

a shelf structure comprising:

a front rod-like member (10a) and at least one other rod-like member (10b, 10c) rearwardly spaced from the front rod-like member (10a) and, together with the front rod-like member (10a), defining a first plane (16);

a framework (22b) defining a second plane;

at least one support (22a) connecting at least the front rod-like member (10a) and the framework (22b), and

at least one member connecting the front and other rod-like members

wherein at least a portion of the framework (22b) extends at least forward of a projection of the front rod-like member (10a) thereon with a stop (34) in a direction from the second plane with at least a component toward the first plane (16), and wherein the framework comprises further rod-like members extending from one end at the stop to an opposite end that is rearward of a rearward most one of the at least one other rod-like member.

7. In one of a cooler, visi-cooler, walk-in cooler and glass-door cooler having fixed or adjustable shelves, the improvement comprising:

a shelf structure comprising:

a front rod-like member (10a) and at least one other rod-like member (10b, 10c) rearwardly spaced from the front rod-like member (10a) and, together with the front rod-like member (10a), defining a first plane (16);

a framework (22b) defining a second plane;

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at least one support (22a) connecting at least the front rod-like member (10a) and the framework (22b), and

wherein at least a portion of the framework (22b) extends at least forward of a projection of the front rod-like member (10a) thereon with a stop (34) in a direction from the second plane with at least a component toward the first plane (16), wherein the at least one support comprises legs extending from opposite ends of the front and other rod-like members, and wherein the framework comprises further rod-like members extending from one end at the stop to an opposite end that is rearward of a rearward most one of the at least one other rod-like member.

8. In one of a cooler, visi-cooler, walk-in cooler and glass-door cooler having fixed or adjustable shelves, the improvement comprising:

a shelf structure comprising:

a front rod-like member (10a) and at least one other rod-like member (10b, 10c) rearwardly spaced from the front rod-like member (10a) and, together with the front rod-like member (10a), defining a first plane (16);

a framework (22b) defining a second plane;

at least one support (22a) connecting at least the front rod-like member (10a) and the framework (22b), and

at least one member connecting the front and other rod-like members

wherein at least a portion of the framework (22b) extends at least forward of a projection of the front rod-like member (10a) thereon with a stop (34) in a direction from the second plane with at least a component toward the first plane (16), and wherein the framework comprises further rod-like members extending from one end at the stop to an opposite end that is rearward of a rearward most one of the at least one other rod-like member.

9. The shelf structure according to claim 1, and further comprising a front panel at a front side of the stop, whereby to carry indicia corresponding to items on the framework.

10. The shelf structure according to claim 2, and further comprising a front panel at a front side of the stop, whereby to carry indicia corresponding to items on the framework.

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11. The shelf structure according to claim 3, and further comprising a front panel at a front side of the stop, whereby to carry indicia corresponding to items on the framework.

12. The shelf structure according to claim 4, and further comprising a front panel at a front side of the stop, whereby to carry indicia corresponding to items on the framework.

13. The shelf structure according to claim 5, and further comprising a front panel at a front side of the stop, whereby to carry indicia corresponding to items on the framework.

14. A shelf structure configured to rest on and engage a shelf structure which is horizontal or inclined, the shelf structure, comprising:

a front rod-like member (10a) and at least one other rod-like member (10b, 10c) rearwardly spaced from the front rod-like member (10a) and, together with the front rod-like member (10a), defining a first plane (16) and configured to support additional shelving above the first plane;

a framework (22b) defining a second plane; and

at least one support (22a) connecting at least the front rod-like member (10a) and the framework (22b),

wherein at least a portion of the framework (22b) extends at least forward of a projection of the front rod-like member (10a) thereon with a stop (34) in a direction from the second plane with at least a component toward the first plane (16), and

further comprising members on the front and other rod-like members for fixing the framework under another structure.

15. The shelf structure according to claim 2, and further comprising members on the front and other rod-like members for fixing the framework under another structure.

16. The shelf structure according to claim 3, and further comprising members on the front and other rod-like members for fixing the framework under another structure.

17. The shelf structure according to claim 4, and further comprising members on the front and other rod-like members for fixing the framework under another structure.

18. The shelf structure according to claim 5, and further comprising members on the front and other rod-like members for fixing the framework under another structure.

19. The shelf structure according to claim 9, and further comprising members on the front and other rod-like members for fixing the framework under another structure.

20. A rack comprising:
- a support assembly having a forward portion and a rearward portion and being configured to support a plurality of beverage containers;
  - a first pair of support legs having lower ends connected to the forward portion;
  - and
  - a second pair of support legs having lower ends connected to the rearward portion, each of the first and second pairs of support legs having upper ends configured to hang the rack from a shelf disposed above the rack;
  - a spacing defined between the upper ends of the of the second pair of support legs and the rearward portion of the support assembly sized so as to allow beverage containers to be inserted between a rear portion of the shelf and the rearward portion of the support assembly;
  - a stop disposed at the forward portion of the support assembly, the stop including a panel configured to support a label;
  - wherein the first and second pairs of support legs are sized such that the forward portion hangs lower than the rearward portion when the rack is hanging, by the upper ends of the first and second pairs of the support legs, from a horizontal shelf.
21. (Canceled)
22. The rack according to Claim 20, wherein the panel forms a stop.
23. The rack according to Claim 22, wherein the panel includes at least one substantially vertical surface.
24. The rack according to Claim 20 additionally comprising threaded fasteners connecting the upper ends of the first and second pairs of support legs to the shelf.
25. (Canceled)
26. The rack according to Claim 25, wherein the stop is spaced forwardly from the first pair of support legs.
27. The rack according to Claim 20, wherein the first and second pairs of support legs are sized such that the rack can only receive articles having at least one dimension less than about 2.5 inches.

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28. The rack according to Claim 20, wherein the support assembly is configured to support a plurality of parallel files of beverage containers extending between the rearward portion and the forward portion.

29. The rack according to Claim 20, wherein the support assembly comprises a wire frame configured to allow cylindrical beverage containers to roll along an upper surface thereof.

30. (Twice Amended) A shelving system comprising:

a [substantially] horizontal shelf having a forward area and a rearward area;

a rack disposed below the shelf and comprising a support assembly having a forward portion and a rearward portion and being configured to support a plurality of beverage containers;

a first pair of support legs having lower ends connected to the forward portion;

a second pair of support legs having lower ends connected to the rearward portion, the first pair of support legs having upper ends configured to hang from the forward area of the shelf, the second pair of support legs having upper ends configured to hang from the rearward area of the shelf;

a spacing defined between the upper ends of the of the second pair of support legs and the rearward portion of the support assembly sized so as to allow beverage containers to be inserted between the [rear portion] rearward area of the shelf and the rearward portion of the support assembly; and

a stop disposed at the forward portion of the support assembly, the stop including a panel configured to support a label;

wherein the first and second pairs of support legs are sized such that the support assembly is inclined relative to the shelf when the rack is hanging from the shelf.

31. The shelving system according to Claim 30, wherein the shelf is adjustably mounted within a display case.

32. The shelving system according to Claim 30, wherein the rack is narrower than the shelf.

33. The shelving system according to Claim 30, wherein a clearance is defined between a lower surface of the shelf and an upper surface of the support assembly when the rack is hanging from the shelf, the first and second pairs of support legs being sized such that a

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cylindrical beverage container having a diameter of about 2.5 inches or more cannot fit within the clearance.

34. The shelving system according to Claim 33, wherein the first and second pairs of support legs are sized such that a cylindrical beverage container having a diameter of about two inches can fit within the clearance.

35. The shelving system according to Claim 30 additionally comprising threaded fasteners connecting the upper ends of the first and second pairs of support legs to the shelf.

36. (Twice Amended) A rack comprising:

- a support assembly having a forward portion and a rearward portion and being configured to support a plurality of beverage containers;

- a first pair of support legs having lower ends connected to the forward portion;

- a second pair of support legs having lower ends connected to the rearward portion, each of the first and second pairs of support legs having upper ends configured to hang the rack from a shelf disposed above the rack;

- means for causing the forward portion to hang lower than the rearward portion when the rack is hanging, by the upper ends of the first and second pairs of the support legs, from a horizontal shelf disposed above the rack;

- means defining a spacing between the upper ends of the of the second pair of support legs and the rearward portion of the support assembly sized so as to allow beverage containers to be inserted between the [rear portion] rearward area of the shelf and the rearward portion of the support assembly; and

- a stop disposed at the forward portion of the support assembly, the stop including a panel configured to support a label.

37. The rack according to Claim 36, wherein a clearance is defined between the support assembly and a lower surface of the rack, additionally comprising means for preventing a cylindrical beverage container having a diameter of about 2.5 inches or more from fitting within the clearance.

38. (Canceled)



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39. The rack according to Claim 36 additionally comprising means for allowing a cylindrical beverage container to pass upwardly between the stop and a forward edge of the shelf when the rack is hanging from the shelf.

40. (Canceled)

41. (Canceled)

42. (Canceled)

43. (Canceled)

44. (Canceled)

45. (Canceled)

46. (Canceled)

47. (Canceled)

48. (Canceled)

49. A shelf structure comprising:

a support assembly defining a first surface configured to support a plurality of beverage containers, the support assembly having a forward portion and a rearward portion;

a first plurality of support legs having lower ends connected to the forward portion of the support assembly and having upper ends configured to hang from a shelf disposed above the shelf structure;

a second plurality of support legs having lower ends connected to the rearward portion of the support assembly and having upper ends configured to hang from a shelf disposed above the shelf structure;

a plurality of supports configured with sufficient strength to support additional shelving above the beverage containers supported on the first surface.

50. The shelf structure according to Claim 49, wherein the plurality of supports comprises at least two rod-like members.

51. The shelf structure according to Claim 49 additionally comprising fasteners configured to hang the upper ends of the first and second plurality of support legs from a shelf disposed above the shelf structure.

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52. The shelf structure according to Claim 49 additionally comprising apertures defined in the plurality of supports configured to receive fasteners.

53. (Amended) In one of a cooler, visi-cooler, walk-in cooler and glass-door cooler having fixed or adjustable shelves, the improvement comprising:

- a shelf structure configured to rest on and engage one of the shelves, comprising:
  - a front member and at least one other member rearwardly spaced from the front member and, together with the front member, defining a first plane configured to support additional shelving above the first plane;
  - a framework defining a second plane; and
  - at least one support connecting at least the front [rod-like] member and the framework,

- wherein at least a portion of the framework extends at least forward of a projection of the front member thereon with a stop in a direction from the second plane with at least a component toward the first plane.

54. (Amended) A shelf structure comprising:

- a front member and at least one other member rearwardly spaced from the front member and, together with the front member, defining a first plane;

- a framework defining a second plane; and

- at least one support connecting at least the front member and the framework,

- wherein at least a portion of the framework extends at least forward of a projection of the front member thereon with a stop in a direction from the second plane with at least a component toward the first plane, and

- wherein the framework comprises further members extending from one end at the stop to an opposite end that is rearward of a rearward most one of the at least one other [rod-like] member.

55. A shelf structure configured to rest on and engage a shelf, the shelf structure comprising:

- a front member and at least one other member rearwardly spaced from the front member and, together with the front member, defining a first plane and configured to support additional shelving above the first plane;

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a framework defining a second plane; and  
at least one support connecting at least the front member and the framework,  
wherein at least a portion of the framework extends at least forward of a  
projection of the front member thereon with a stop in a direction from the second plane  
with at least a component toward the first plane.

56. The shelf structure according to Claim 55 additionally comprising members on the  
front and other members configured to fix the framework under another structure.

57. (Amended) A shelf comprising:

a support assembly having a forward portion and a rearward portion, the support  
assembly defining a support surface configured to support a plurality of cylindrical  
beverage containers;

a stop disposed at the forward portion of the support assembly, the stop including  
a panel configured to support a label;

first and second support portions disposed at the forward portion of the support  
assembly, the first and second support portions including upper ends, respectively,  
disposed above the plurality of [cans] cylindrical beverage containers supported on the  
support surface;

at least first and second apertures disposed adjacent the upper ends of the first and  
second support portions, respectively, the first and second apertures being configured to  
receive fasteners for supporting the forward portion of the support assembly from a shelf  
above the support assembly, the first and second apertures being spaced rearwardly from  
the stop;

third and fourth support portions disposed at the rearward portion of the support  
assembly, the third and fourth support portions including upper ends, respectively; and

at least third and fourth apertures disposed adjacent the upper ends of the third  
and fourth support portions, respectively, the third and fourth apertures being configured  
to receive fasteners for supporting the rearward portion of the support assembly from a  
shelf above the support assembly[;].

58. (Amended) The shelf according to Claim 57, wherein the third and fourth apertures  
are spaced from a rearward-most portion of the rearward portion of the support assembly such

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that cylindrical beverage containers can be placed onto the rearward portion of the support assembly when the third and fourth apertures are connected to a shelf disposed above the support assembly by fasteners.

59. The shelf according to Claim 58, wherein the fasteners are threaded fasteners.

60. The shelf according to Claim 58 additionally comprising a horizontally extending plate connecting the third and fourth support portions, the apertures being defined in the plate.

61. The shelf according to Claim 58 additionally comprising a horizontally extending plate connecting the first and second support portions, the apertures being defined in the plate.

62. The shelf according to Claim 1 additionally comprising members on the front and other rod-like member for fixing the framework under another structure.

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